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In re Application of :
Koichiro Hori :
Serial No. 08/067,140 : DECISION ON PETITION
Filed: May 25, 1993 :
Attorney Docket No. HORI-101AX :

This is a decision on the petition filed August 2, 1993, requesting that the above-identified application be accorded a filing date of May 25, 1993.

The application was deposited on May 25, 1993. However, on June 28, 1993, Application Division mailed a "Notice" requiring a drawing of Figures 6C-6G described in the specification and stating that the filing date would be the date of receipt of the omitted drawing. An oath or declaration was also indicated as missing. However, a declaration was filed on May 25, 1993, and is present in the file.

In response, on August 2, 1993, the present petition, a preliminary amendment and authorization to charge the petition fee to a deposit account were filed. Petitioner requests that the application be accorded a filing date of May 25, 1993, the date the application was deposited in the Patent and Trademark Office (PTO) without drawings labeled Figures 6C-6G. Petitioner argues that the reference to "Figs. 6-6G" in the "Brief Description" was a typographical error and no drawings containing Figures 6C-6G were intended to be filed. In support, the preliminary amendment deletes the reference to Figures 6-6G in the specification and inserts a reference to Figures 6-6B.

The argument made in the petition is persuasive that the reference to "Figs. 6-6G" in the specification was an inadvertent error which has been corrected by the preliminary amendment filed with the petition.

In view of the above, the petition is granted.

The "Notice" mailed June 28, 1993, is hereby vacated.

However, since the application as filed described Figures 6-6G, and no drawing labeled Figure 6C, 6D, 6E, 6F or 6G was present, the application was prima facie incomplete. See MPEP 506 and 608.01(f). Thus, the petition and the petition fee were necessary to correct applicant's filing error. Therefore, the petition fee will not be refunded.

The application is being forwarded to the Office of Finance for charging the \$130.00 petition fee to counsel's deposit account No. 23-0804.

The application is being returned to Application Division for further processing with a filing date of May 25, 1993.



John F. Gonzales

Special Program Examiner
Office of the Assistant Commissioner for Patents

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